

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

JAMES GEMELAS, On Behalf of Himself and
All Others Similarly Situated,

Plaintiff,

v.

THE DANNON COMPANY, INC.,

Defendant.

No. CV-08-236

CLASS ACTION

JUDGE DAN A. POLSTER

AGREED ORDER PERMITTING DISTRIBUTION OF PAYMENTS
TO OBJECTORS FROM THE SETTLEMENT FUND

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[Additional Counsel Appear on Signature Page.]

The Plaintiff Class, The Dannon Company, Inc. and Objectors Robert Falkner, Wanda Cochran, Grace M. Cannata, Danette Loeffler, Brad Henry, and Sheila Lodwick, represented by Edward Cochran, Edward Siegel, Francis E. Sweeney, Jr. and Sam Cannata (“Cochran Objectors”); Denise Fairbank represented by Kenneth Nelson and Edward Siegel (“Nelson Objectors”); Steven Cope, represented by Darrell Palmer and Edward Siegel (“Palmer Objectors”); Clyde F. Padgett, *pro se* (“Objector Padgett”); James Wilson represented by Charles H. Cooper, Jr. (“Cooper Objector”); Paul Rothstein and his client or clients (“Rothstein Objector”); and Albert Bacharach and his client or clients (“Bacharach Objector”) (collectively referred to as “The Objectors”) have agreed to enter into settlement agreements which will include the following terms and conditions:

1. Attorneys Edward Cochran and Francis Sweeney agree they will immediately dismiss and abandon Court of Appeals Case No. 10-03933;
2. Attorney James Wilson agrees he will immediately dismiss and abandon Court of Appeals Case No. 10-3934;
3. Objector Clyde F. Padgett agrees he will immediately dismiss and abandon Court of Appeals Case No. 10-3935;
4. The Objectors agree to withdraw all Motions for Fees;
5. The Objectors agree that there will be no further objections, motions, actions, appeals, or any other proceedings of any kind filed or maintained by or on behalf of The Objectors collectively or individually by the Cochran Objectors, the Palmer Objectors, the Cooper Objectors, the Nelson Objectors, the Rothstein Objectors, the Bacharach Objectors and the Objector Padgett.
6. Payment will be made to The Objectors thirty (30) days after the (i) Effective Date as defined in the Amended Stipulation of Settlement between the Class and Dannon and (ii) there is no further activity or right to file in the appellate courts;
7. The Objectors agree that if an appellate court issues an opinion in *Gemelas v. Dannon Company, Inc.*, The Objectors and their Counsel will not receive any payment under

the terms of the settlement agreements; and

8. Nothing in the settlement agreements shall be deemed to be (i) an admission or acknowledgement by any party hereto of any right, claim or interest in this case except as expressly stated therein or (ii) a modification of the final judgment.

Subject to the final executed settlement agreements and to the foregoing terms and conditions, the Court hereby approves the withdrawal of the objections and orders that any payments pursuant to these settlement agreements may be paid out of the Settlement Fund, as that term is defined in §II.A.(25) of the Amended Stipulation of Settlement, filed January 20, 2010, in accordance with §IV.A.(2)(d) of the Amended Stipulation of Settlement, as requested by the Cochran Objectors, Nelson Objectors, Palmer Objectors, Rothstein Objectors, Bacharach Objectors and Objector Padgett.

IT IS SO ORDERED.

DATED: <u>September 27, 2010</u>	<u>/s/Dan Aaron Polster</u> THE HONORABLE DAN A. POLSTER UNITED STATES DISTRICT COURT JUDGE
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Submitted by:

DATED: September 16, 2010

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s/John R. Climaco

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CERTIFICATE OF SERVICE

I hereby certify that on ____, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the Electronic Mail Notice List, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CF/ECF participants indicated on the Electronic Mail Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on ____, 2010.

s/John R. Climaco

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